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May 28, 2002

Dorothy Attwood
Chief, Wireline Competition Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Triennial Review Proceeding, CC Docket Nos. 01-338, 96-98 and 98-147

Dear Dorothy:

The D.C. Circuit's May 24, 2002 decision in *United States Telecom Association v FCC*, Case No. 11-1012, remanded the *UNE Remand Order* to the Commission for further consideration and vacated its *Line Sharing Order*. Since matters relating to those orders are intimately related to those currently before the Commission in its Triennial Review and parties are currently facing a June 5 reply date in that proceeding, AT&T requests that the Commission take the following actions.

In the ordinary case, when a Commission rulemaking order is remanded for reconsideration by a Court of Appeals, the Commission issues a notice of proposed rulemaking summarizing the court's decision, identifying its possible impacts on the affected rules and soliciting comments. Assuming the Commission chooses to adopt that course here, we believe that it should incorporate the record of the Triennial Review into the new NPRM and solicit comments and replies on a 45/30 day briefing cycle. In the interim, it should issue a notice stating that it plans to issue the new NPRM shortly and suspend the June 5 reply date in the Triennial Review.

If, in the alternative and in light of the developing record that is being amassed in the Triennial Review, the Commission wishes to incorporate the remand into the Triennial Review, it should promptly issue a notice suspending the date for reply comments for 60 days and permitting rebuttal comments 30 days thereafter.

AT&T believes that the Court of Appeals' concerns regarding the *UNE Remand Order* are largely being addressed in the Triennial Review, but additional time is needed to provide a complete response and rebuttal. And in all events, there is no reasonable way that parties can provide adequate responses by June 5.

Sincerely,

A handwritten signature in black ink, appearing to be 'JM' with a long horizontal line extending to the right.

Joan Marsh

cc: Tom Navin, Jeremy Miller, Chris Libertelli